

## **§ 405.501**

judge is binding and not subject to judicial review.

(d) The Board's action under § 405.427 on a request to vacate an administrative law judge's dismissal order is binding and not subject to further review.

### **Subpart F—Judicial Review**

#### **§ 405.501 Judicial review.**

You may file an action in a Federal district court within 60 days of the date our decision becomes final and judicially reviewable.

#### **§ 405.505 Extension of time to file a civil action.**

If you have received our final decision, you may request that we extend the time for seeking judicial review in a Federal district court. Your request must be in writing and explain why the action was not filed, or cannot be filed, on time. The request must be filed with the Board. If you show that you have good cause for missing the deadline, we will extend the time period. We will use the standards in § 405.20 of this part to determine if you have good cause for an extension of time.

#### **§ 405.510 Claims remanded by a Federal court.**

When a Federal court remands a claim decided under this part to us for further consideration, the Board may make a decision based upon the evidence in the record, or it may remand the claim to an administrative law judge. If the Board remands a claim to an administrative law judge, it will send you a notice.

#### **§ 405.515 Application of circuit court law.**

We will follow the procedures of §§ 404.985 and 416.1485 of this chapter for claims decided under this part.

### **Subpart G—Reopening and Revising Determinations and Decisions**

#### **§ 405.601 Reopening and revising determinations and decisions.**

(a) Subject to paragraph (b), the reopening procedures of §§ 404.987 through 404.996 of this chapter apply to title II

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claims and the procedures of §§ 416.1487 through 416.1494 of this chapter apply to title XVI claims.

(b) When we have issued a final decision after a hearing on a claim that you seek to have reopened, for purposes of this part, the time frames for good cause under §§ 404.988(b) and 416.1488(b) of this chapter are six months from the date of the final decision and we will not find that “new and material evidence” under §§ 404.989(a)(1) and 416.1489(a)(1) of this chapter is a basis for good cause.

[71 FR 16446, Mar. 31, 2006; 71 FR 17990, Apr. 10, 2006]

### **Subpart H—Expedited Appeals Process for Constitutional Issues**

#### **§ 405.701 Expedited appeals process—general.**

You may use the expedited appeals process if you have no dispute with our findings of fact and our application and interpretation of the controlling law, but you believe that a part of that law is unconstitutional. By using the expedited appeals process you may go directly to a Federal district court without first completing the administrative review process that is generally required before the court will hear your claim.

#### **§ 405.705 When the expedited appeals process may be used.**

If you have filed a disability claim, you may use the expedited appeals process if all of the following requirements are met:

(a) You have received an initial determination and a decision by a Federal reviewing official, but an administrative law judge has not made a decision;

(b) You have submitted a written request for the expedited appeals process; and

(c) You have our written agreement to use the expedited appeals process as required in § 405.715.

#### **§ 405.710 How to request an expedited appeal.**

(a) *Time limit for filing request.* If you wish to use the expedited appeals process, you must request it—

(1) No later than 60 days after the date you receive notice of the Federal reviewing official's decision (or within the extended time period if we extend the time as provided in paragraph (c) of this section), or

(2) At any time after you have filed a timely request for a hearing but before you receive notice of the administrative law judge's decision.

(b) *Place for filing request.* You should file a written request for an expedited appeal at one of our offices. If you have a disability claim under title II of the Act, you may also file the request at the Veterans Administration Regional Office in the Philippines, or if you have 10 or more years of service, or at least five years of service accruing after December 31, 1995, in the railroad industry, an office of the Railroad Retirement Board.

(c) *Extension of time to request expedited appeals process.* If you want to use the expedited appeals process but do not request it in time, you may ask for more time to submit your request. Your request for an extension of time must be in writing and must give the reasons why the request for the expedited appeals process was not filed in time. If you show that you had good cause for missing the deadline, the time period will be extended. To determine whether good cause exists, we use the standards explained in § 405.20 of this part.

#### **§ 405.715 Agreement in expedited appeals process.**

If you meet all the requirements necessary for using the expedited appeals process, our authorized representative shall prepare an agreement. The agreement must be signed by you and by our authorized representative. The agreement must provide that—

(a) The facts in your claim are not in dispute;

(b) The sole issue in dispute is whether a provision of the Act that applies to your claim is unconstitutional;

(c) Except for your belief that a provision of the Act is unconstitutional, you agree with our interpretation of the law;

(d) If the provision of the Act that you believe is unconstitutional were

not applied to your claim, your claim would be allowed; and

(e) Our decision is final for the purpose of seeking judicial review.

#### **§ 405.720 Notice of agreement to expedite appeal.**

If we agree that you can use the expedited appeals process, a signed copy of the agreement will be mailed to you and will constitute notice. If you do not meet all of the requirements necessary to use the expedited appeals process, we will advise you that your request to use this process is denied and that your request will be considered as a request for a hearing, if you have not already requested a hearing.

#### **§ 405.725 Effect of expedited appeals process agreement.**

After an expedited appeals process agreement is signed, you will not need to complete the remaining steps of the administrative review process. Instead, you may file an action in the Federal district court in the district where you reside. You must file within 60 days after the date you receive notice that the agreement has been signed by our authorized representative.

### **Subpart I [Reserved]**

### **Subpart J—Payment of Certain Travel Expenses**

#### **§ 405.901 Reimbursement of certain travel expenses.**

When you file a disability claim, you may incur certain travel expenses that may be reimbursable. We use §§ 404.999a through 404.999d of this chapter for title II claims and §§ 416.1495 through 416.1499 of this chapter for title XVI claims in determining reimbursable expenses and for explaining how and where you may request reimbursement.

## **PART 408—SPECIAL BENEFITS FOR CERTAIN WORLD WAR II VETERANS**

### **Subpart A—Introduction, General Provision and Definitions**

Sec.

408.101 What is this part about?

408.105 Purpose and administration of the program.